

N THE MATTER OF	:	NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATE OF	:	STATE BOARD OF EXAMINERS
DAVID SEXTER	:	ORDER OF REVOCATION
_____	:	DOCKET NO: 466-04/98-184

At its meeting of April 2, 1998, the State Board of Examiners reviewed information received from the Division of Criminal Justice indicating that on November 7, 1997, David Sexter had pled guilty to charges of aggravated assault in the 2nd degree. On November 7, 1997, Sexter was sentenced to four years' probation with the condition that he have no contact with the victim or the victim's family. Sexter is currently the holder of a Teacher of Elementary School Certificate of Eligibility with Advanced Standing. Upon review of the above information, at that April meeting, the State Board of Examiners voted to issue an Order to Show Cause to Respondent.

The Board sent Sexter the Order to Show Cause by regular and certified mail on May 4, 1998. The Order provided that if Respondent desired to file an Answer to the Order such Answer must be filed within 20 days. On June 2, 1998, Sexter responded to the Order to Show Cause requesting that it be held in abeyance until November 1998, when he expected to conclude a civil trial in which he was involved. In that correspondence Sexter also explained that the original prosecutor in his criminal case might have acted inappropriately and that the best deal the new prosecutor could offer him was probation. Sexter also claimed that the civil actions that had arisen out of the criminal proceedings would call into question his sentence and possibly lead to his conviction being overturned.

On September 24, 1998, the Board of Examiners voted to hold the Order in abeyance until the end of November 1998. Sexter then submitted a response to the Order to Show Cause. In that Answer, Sexter admitted that he had indeed pled guilty to the assault charge. (Answer, ¶¶ 3). Sexter also explained that his assault charge stemmed from an altercation he had had with a neighbor. (Answer, ¶7). Sexter explained that his neighbor had attacked him and that while Sexter attempted to protect himself, his neighbor was injured. (Answer, ¶7). Sexter also tried to show that he received a very light sentence from the court and that this was an isolated incident. (Answer, ¶10). Sexter further argued that he had an unblemished record as a teacher and that any action against his certification was unwarranted. (Answer, ¶10).

Thereafter, pursuant to N.J.A.C. 6:11-3.6(a)1, on January 6, 1999, the Board of Examiners sent Sexter a hearing notice by regular and certified mail. The notice explained that since it appeared no material facts were in dispute, Sexter was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder. It also explained that upon review of the charges against him and the legal arguments tendered in his defense, the State Board of Examiners would determine if his offense warranted action against his certificates. Thereupon, the Board of Examiners would also determine the appropriate sanction, if any. The certified mail copy of the hearing notice was signed and returned. The regular mail copy was not returned. Sexter did not respond to the hearing notice. On February 2, 1999, the State Board of Examiners advised Sexter by regular and certified mail that he was being afforded another 10 days to respond to the hearing notice. The certified mail was returned unclaimed and the regular copy was not returned. Sexter never responded.

The threshold issue before the State Board of Examiners in this matter, therefore, is to determine whether Sexter's guilty plea to charges of 2nd degree assault constitutes conduct unbecoming a certificate holder. At its meeting of May 13, 1999, the State Board of Examiners reviewed the charges and papers filed by respondent in response to the Order to Show Cause. After review of Sexter's submissions, the Board of Examiners determined that no material facts related to respondent's offense were in dispute since Sexter admitted that he had pled guilty to the offense charged and had been sentenced accordingly. Thus, the Board of Examiners determined that summary decision was appropriate in this matter. N.J.A.C. 6:11-3.6(a)1.

The State Board of Examiners must now determine whether Sexter's offense as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to N.J.A.C. 6:11-3.6(a)1. After our independent review of the record, we find that it does.

The State Board of Examiners may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. N.J.A.C. 6:11-3.4. "Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment." Tenure of Sammons, 1972 S.L.D. 302, 321.

Sexter's act of assault demonstrates a clear lack of restraint and is inexcusable for any individual, teacher or not. While Sexter may have been an excellent teacher in the classroom, he has not demonstrated like behavior outside that arena.

Sexter argues that he should retain his certificate since the incident does not implicate his teaching career. It is well established that the State Board of Examiners has the right to revoke a certificate where the teacher was involved in criminal activities, even if the activities were unrelated to the classroom. See Cox v. State Board of Examiners, (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981).

Moreover, the Commissioner has long held that teachers serve as role models for their students. Therefore, a teacher's whole life is subject to scrutiny, not just his actions within the schoolhouse doors:

[R]espondent's argument that, because the occurrence happened in the evening away from school premises, both the Board and the Commissioner have no authority to act, is without merit. Individuals who must comport themselves as models for young minds to emulate choose the teaching profession. This heavy responsibility does not begin at 8:00 a.m. and conclude at 4:00 p.m., Monday through Friday, only when school is in session. Being a teacher requires, *inter alia*, a consistently intense dedication to civility and respect for people as human beings. The Commissioner has, on past occasions, determined tenure charges arising from incidents which happened in the evening both on and off school property. See, In the Matter of the Tenure Hearing of Thomas Appleby, School District of Vineland, Cumberland County, 1965 S.L.D. 159, aff'd State Board of Education 1970 S.L.D. 448; In the Matter of the Tenure Hearing of John H. Stokes, School District of the City of Rahway, Union County, 1971 S.L.D. 623.

In the Matter of the Tenure Hearing of Robert H. Beam, 1973 S.L.D. 157, 163. Sexter therefore cannot exclude his "out-of-school" behavior from this tribunal's examination.

Furthermore, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. Redcay v. State Board of Education, 130 N.J.L. 369, 371 (S. Ct. 1943), aff'd. 131 N.J.L. 326 (E & A 1944). In this instance, Sexter's offense caused bodily harm to another individual. The Board of Examiners cannot condone such behavior by allowing Sexter to remain in any classroom.

Notwithstanding Sexter's contentions of rehabilitation, this is not the proper context for such considerations. The purpose of this proceeding is "to permit the individual certificate holder to demonstrate circumstances or facts to counter the charges set forth in the Order to Show Cause, not to afford an opportunity to show rehabilitation." See, In the Matter of the Revocation of the Teaching Certificate of Gloria Jackson by the State Board of Examiners, 96 N.J.A.R. 2D (EDE) 1, 16 aff'd App. Div. Dkt. No. A-1246-96T5 (September 9, 1997)(citing In the Matter of the Revocation of the Teaching Certificate of James

Noll, State Bd. of Examiners decision (February 7, 1990)). Thus, the fact that Sexter has not been involved with the legal system since the assault, while a step in the right direction, has no bearing on the decision the Board of Examiners must make with regard to his certification. Furthermore, having an unblemished criminal record is a minimum expectation, not a standard to which one should aspire.

Accordingly, it is therefore ORDERED that David Sexter's Teacher of Elementary School Certificate of Eligibility with Advanced Standing certificate be revoked on this 13th day of May, 1999. It is further ORDERED that David Sexter return his certificate to the Secretary of the State Board of Examiners, Office of Licensing, CN 500, Trenton, NJ 08625-0500 within fifteen (15) days of receipt of this decision.

Secretary
State Board of Examiners

Date of Mailing: July 9, 1999

Appeals may be made to the State Board of Education pursuant to the provisions of N.J.S.A. 18A:6-28.

IBG:MZ:br:davidsexter